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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,073	07/06/2005	Roland Kratzer	09086-00217-US	4476
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Basell USA Inc. Delaware Corporate Center II 2 Righter Parkway, Suite #300 Wilmington, DE 19803				
EXAMINER				
LU, C'CAIXIA				
ART UNIT		PAPER NUMBER		
1796				
MAIL DATE		DELIVERY MODE		
04/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,073

Applicant(s)

KRATZER, ROLAND

Examiner

Caixia Lu

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-US)
Paper No(s)/Mail Date 10/30/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 21-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bohnen et al. (WO 99/40129, its family US 6,482,902 is cited hereinafter as '902 for convenience) in view of Bohnen et al. (WO 99/06414, its family US 6,417,302 is cited hereinafter as '302 for convenience).

'902 discloses a process of preparation of a catalyst solid, wherein the catalyst composition is substantially the same as the instant claims when one considers that the combination of the organometallic compound represented by formula (V) of component (B) and the active hydrogen-containing organic compound represented by formula (VI) of component (C) of the instant claims corresponds to component (d) of '902 of col. 2, lines 35-54 and Examples 1-4 of '902 (col. 2, line 14 to col. 3, line 16; col. 3, line 41 to col. 5, line 31; and Examples 1-4, 6, 8, 11, 13, and 17-25). It is noted that '902 does not expressly disclose of combining all of the catalyst components without any isolation of an intermediate. However '302 teaches a similar catalyst composition by combining all of the catalyst components to provide a catalyst solid without any isolation of the intermediate, a "one-pot" synthesis (Examples 1-7, col. 1, line 1 to col. 6, line 49).

Thus, it would have obvious to one of ordinary skilled in the art to employ the one pot synthesis process of '302 to prepare the catalyst solid of '902 with a reasonable expectation of obtaining a highly useful method of making a supported catalyst with the benefit of fewer steps and thus lower cost of the production and in the absence of any showing of criticality and unexpected results.

Response to Arguments

2. Applicant's arguments filed February 22, 2008 have been fully considered but they are not persuasive.

Applicants argue that the examiner has not explained why one would have deviated from the express disclosure of Bohnen '902 to leave out the steps of isolating any intermediate, nor has the examiner explained why one would have expected modifying catalyst preparation process of Bohnen '902 by leaving out the steps of isolating any intermediate would be expected to be successful. First of all, the examiner has indicated in the rejection under 35 U.S.C. 103(a) in previous Office Action and recited as shown above that leaving out the steps of isolating any intermediate from the catalyst preparation process would simplify the catalyst preparation process and thus lower the cost for catalyst production and minimize the chances for the catalyst to be deactivated. Secondly, comparing the claimed catalyst preparation process and the catalyst preparation process of Bohnen '302 of combining all of the catalyst components to provide a catalyst solid without any isolation of the intermediate, a "one-pot" synthesis, the only missing catalyst component in Bohnen '302 is the Lewis base such as N,N-dimethylaniline. Since the Lewis base such as N,N-dimethylaniline is not expected to interfere the formation of the catalyst in view of the disclosure of Bohnen '902, one the would have expected the one pot synthesis process to be successful for the preparation of the catalyst composition of Bohnen '902.

Applicants also indicate that the specific compounds containing boron and aluminum disclosed in Bohnen '302 is what one of ordinary skill in the art would have

focused on, however, the Examiner has not addressed those facts yet. The Examiner disagrees. As a matter of fact, the specific compounds containing boron and aluminum is the one of the essential cocatalyst component for Bohnen '902 and Bohnen '302 as well as the catalyst composition prepared by the instantly claimed process since it is understood that the contacting product between the organometallic compound represented by formula (V) of component (B) and the active hydrogen-containing organic compound represented by formula (VI) of component (C) of the instant claims is the specific compounds containing boron and aluminum.

In view of the foregoing, the rejection under 35 U.S.C. 103(a) of the record is still deemed proper and thus maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached on 9:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1796

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Caixia Lu/
Caixia Lu
Primary Examiner
Art Unit 1796